
OLR Bill Analysis

sHB 5455 (as amended by House "A")*

AN ACT CONCERNING PENALTIES FOR AND THE INVESTIGATION OF THE OPERATION OF ILLEGAL MASSAGE ESTABLISHMENTS.

SUMMARY:

This bill extends regulation of the massage therapy field to cover employers, not just individual practioners; expands the practices and services covered by advertising restrictions; and authorizes the Department of Public Health (DPH) commissioner to investigate complaints.

The bill makes employers who knowingly and willfully employ unlicensed people (1) to practice massage therapy or (2) who use a massage therapy-related title guilty of a class C misdemeanor, which is the penalty for individual practioners who violate massage therapy provisions under existing law. A class C misdemeanor is punishable by up to three months imprisonment, up to a \$ 500 fine, or both.

*House Amendment "A" (1) removes a provision authorizing DPH to direct a local public health department to investigate complaints and (2) and makes technical changes and a conforming change.

EFFECTIVE DATE: October 1, 2012

ADVERTISING

The law prohibits using the term or title "massage" when advertising massage therapy services, unless a licensed massage therapist performs the services. "Advertising" includes:

1. giving a card, sign, or device to anyone;
2. causing or allowing a sign or marking on a vehicle, building, or other structure;

3. advertising in a newspaper or magazine; or
4. placing a listing or advertisement in a directory under a heading or classification that includes the words “massage,” “massage therapist,” “massage therapy,” or “massage therapy establishment.”

The bill adds “shiatsu,” “acupressure,” “Thai massage,” “Thai yoga massage,” and “Thai yoga” to this list of terms or titles that can appear in advertising for services only if performed by a licensed massage therapist.

It is unclear what penalty applies to a violation of the advertising provisions, though current law makes the use of certain titles by an unlicensed person a class C misdemeanor and authorizes the DPH commissioner to enforce the advertising provisions.

INVESTIGATIONS

Under the bill, when the DPH commissioner believes, based on credible information or a complaint, that someone has violated massage therapy license or practice requirements or advertising rules, she may, within 30 days of receiving the complaint, begin a formal investigation of the alleged violation. Under existing law, the commissioner must enforce laws concerning massage therapy within available appropriations.

Under the bill, in the course of the investigation, the commissioner may inquire whether a person under investigation legally obtained a DPH license by comparing the photograph on the person's government-issued photo-identification with a photograph from the National Certification Board for Therapeutic Massage and Bodywork or from a company the board contracted with to administer massage exams. Photographs that do not match constitute *prima facie* evidence (i.e., a preliminary showing that can be overcome by other evidence) that the person violated the law by practicing massage therapy without a license.

BACKGROUND

Massage Therapy Defined

By law, “massage therapy” means the systematic and scientific manipulation and treatment of the body’s soft tissues using pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion, and nonspecific stretching. It includes the use of oils, ice, and similar amenities, but does not include diagnosis or other services and procedures for which the law requires a license to practice, including medicine, chiropractic, naturopathy, physical therapy, or podiatry (CGS § 20-206a).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/19/2012)

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/17/2012)